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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,983	07/06/2000	Hiroyasu Sugano	21.1962	4791
21171	7590	04/12/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			ENG, DAVID Y	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,983

Applicant(s)

SUGANO ET AL.

Examiner

DAVID Y. ENG

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The active claims are 1-13 and 15-35.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 and 15-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machida (USP 6,035,304) in view of Borg (USP 5,83,026).

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Borg.

Claim 32 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Machida.

Details of the rejections have already been set forth in the last Office action. The details are incorporated herein by reference thereto.

Claims 1-13 and 15-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitation of the display mode is vague and indefinite. It is not clear what "combining condition information and freshness of the condition information" mean. It is not clear what actually is displayed in the display mode as determined such that a user can observe at a glance the freshness of the condition information.

Further, there is no relationship between determining of the freshness level (second step) and determining of a display mode (third step).

In the communication filed on 3/7/2005, Applicants amended the independent claims to read that a freshness level is determined according to a

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reference time. Determining freshness is no different than determining freshness level. It is like determining the length of an object in either inches or feet. It is dependent on which scale is used in the measurement. No improvement is seen.

Applicants amended the independent claims to read that a display mode is determined by combining the condition information and the freshness of the condition information and further contended that the two references could not be combined. The Examiner disagrees. The Examiner relies on the Machida for the teaching of determining freshness or freshness level by calculating elapsed time from a reference and the teaching of displaying the freshness information. The Examiner relies on the Borg reference for the teaching of determining a display mode. As explained in the last Office action, Borg teaches associating happy or sad faces with happy or sad tune (condition information). In other words, Borg teaches using graphic (faces) instead of words to represent condition information (happy/sad or fresh/not so fresh). From the teaching of Borg, it would have been obvious to a person of ordinary skill in the art to use graphic (faces) to represent degree of "freshness" (condition information) as calculated in Machida. It is like using the picture of a knife and a fork on a highway exit sign to represent a restaurant exit or the graphic of a man or a woman on a rest room door indicating the rest room gender so that a person of any nationality is able to understand. There is no explanation from Applicant as to why the invention as constructed by the Examiner using the Machida and the Borg references is at fault.



PRIMARY EXAMINER